IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRIMINAL MISC.NO.74621 M OF 2006

DATE OF DECISION: MAY 30, 2007

Swaranjit Singh

.....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

1. **Whether Reporters of local papers may be allowed to see the judgement?**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest?**

PRESENT: Mr. Sanjiv Sharma, Advocate,
for the petitioner.

Mr. M. C. Berry, Sr.DAG, Punjab,
for the State.

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RANJIT SINGH, J.

24 years old young person has died an unnatural death inside Central Jail, Amritsar. He was lodged in the jail, facing prosecution for an offence under the Excise Act. Aggrieved father was not even informed about the condition of his son, when he was taken from Central Jail to Guru Teg Bahadur Hospital at 5.22 PM on 27.10.2006. Insensitive administration casually informed him about death of his son, after 4 to 5 hours of the happening and when his body was already put in the mortuary. Such a casual and careless approach has naturally increased the grievance of the father manifold and he

has addressed communication to various forums like Human Rights Commission, Chief Minister, Deputy Inspector General of Police, Deputy Commissioner, Senior Superintendent of Police, including this Court. Action taken by other addressees is not made known. However, this letter addressed to the Chief Justice of this Court has been treated as a Criminal Miscellaneous Petition and is being dealt with on a judicial side.

Notice was issued to the Advocate General, Punjab, Superintendent, Central Jail and Senior Superintendent of Police, Amritsar, to get their response to this unusual happening in the jail.

The petitioner has mentioned facts in a bare minimum which gave enough information to proceed with the matter with concern.

Harinder Singh, son of the petitioner, was lodged at Central Jail, Amritsar, on 9.9.2006, for an innocuous offence under the Excise Act. On 26.10.2006, he was produced before the Court of magistrate, Shri Sumit Ghai and the case was adjourned to 11.11.2006. He was taken back to the jail safely in a good health and sound physique. Thereafter, he was brought to Civil Hospital, Amritsar, at 5.22 PM on 27.10.2006 and was declared dead on the same day at 6.30 P.M. His father, the present petitioner, was then informed, as already noticed. When the petitioner saw the dead body of his son, he found injuries on his head, eyes and some other parts. Sad and worried father obviously made enquiries from the civil agencies but nobody would tell anything about the manner these injuries were caused or cause of the death. Post mortem has revealed injuries on the head and eyes of the deceased. It is in this

background that he has made the present approach by writing this letter to various authorities.

Separate replies have been filed by Deputy Superintendent of Police, City II, Amritsar and Superintendent, Central Jail, Amritsar. The reply by way of affidavit filed by D.S.P., Amritsar, would show that FIR No.193 dated 1.10.2000 was registered against the son of the petitioner and on completion of investigation, challan was presented on 29.9.2001. The son of the petitioner allegedly jumped bail and was declared proclaimed offender on 31.8.2006. He was again arrested on 2.9.2006 and produced in the Court on the next day. It is made out that son of the petitioner was drug addict but still it is disclosed that he was lodged in Central Jail on 3.9.2006 in a good and sound condition. Thereafter a message was received from Emergency Medical Officer, Civil Hospital, Amritsar, by S.H.O., Police Station A Division, Amritsar, that son of the petitioner had been brought to the hospital at 5.22 PM on 27.10.2006 from Central Jail, Amritsar, in an unconscious state and he expired at 6.20 PM on the same day. It is disclosed that the present complaint filed by the petitioner was got enquired by the Deputy Commissioner, Amritsar, through Sub Divisional Magistrate, Amritsar II. The finding by this enquiry is that son of the petitioner slipped in latrine and became senseless. It is stated that Enquiry Officer had verified these facts from other prisoners and, thus, found that son of the petitioner was not given any beating by any one in the jail. The cause of death, as reported by the doctor is `Crarioceretral injury (1) and (2), which were found sufficient to cause death in ordinary course of nature. This enquiry conducted by Sub Divisional

Magistrate, to say the least, is the most perfunctory and appears to have been conducted with an aim to save the officials responsible for the death of the deceased, son of the petitioner. The officers, at this level of administration, can be expected to act in much better manner in dealing with situation where human life has been lost. Without recording the statement of doctors about the cause of injuries or death, he has formed his opinion and has exonerated the errant official or any one else who may have been responsible in this case. The maturity, if he had one, could have made him realised that jail officials and co-prisoners, under the control of such officials, could not have come out with the true state of affairs. He was required to probe better and is found wanting in discharge of his duties as Enquiry Officer.

In a separate reply filed by Superintendent, Central Jail, Amritsar, the story in regard to the deceased being a drug addict is highlighted. Superintendent, Central Jail, appears to have made a conscious effort to remain as evasive as possible with the aim which is quite obvious. It is disclosed that deceased Harinder Singh was admitted in De-Addiction Centre of the jail on 6.9.2006. It is further disclosed that none of the employees were on duty at De-Addiction Centre of the jail, including the Incharge Assistant Superintendent, Head Warden or Warden. Having said so, the Superintendent has disclosed that on learning about the incident, he deputed Davinder Singh Randhawa, Deputy Superintendent, to hold enquiry. It is claimed that he had recorded the statement of eye witnesses. If no one was present in the De-addiction Centre, then from where the eye witnesses have appeared? These witnesses have statedly disclosed

that deceased had gone to the bathroom in the afternoon at about 1.40 PM, where he fell down. The deponent, Superintendent Jail has presumed from this that the injury was due to a fall. He has averred in the reply-affidavit that "***it can be possible to say that he might have suffered injury at the time of felling down in the bathroom and he became unconscious, then he was put on the bed at the said Centre."*** The nature of enquiry conducted by Davinder Singh Randhawa can well be reflected from these presumptive averments. If eye witnesses have given this account, then there would not have been any need for the Superintendent to depose in his affidavit that he might have suffered this injury etc. and had become unconscious etc. It appears that this story is being invented with an obvious aim to save the persons responsible for this unnatural death. Though some action has been directed against the jail officials found negligent in performing their duties including the jail doctor, yet an apparent attempt seems to have been made to hide the true state of affairs. The Superintendent, Central Jail, perhaps has not realised the implications of his stating that the deceased was drug-addict. Even if he was so, how and from where he was getting this drug while confined in jail? He can rightly be expected to answer this, moreso, when even in perfunctory enquiry held by Sub Divisional Magistrate, Amritsar, it is recorded that the deceased had consumed some intoxicant inside the ward at night. It is also recorded that none of the employees reported regarding this in time to the jail authorities **intentionally**. The Sub Divisional Magistrate has ignored this glaring mal-functioning of the jail, where drugs were easily available to be

consumed by the prisoners. It would be further surprising to notice that Sub Divisional Magistrate, while conducting enquiry has relied upon the report submitted by Superintendent, Central Jail. What use would this enquiry be in regard to the cause of death, if it has to depend upon the report of Superintendent, Jail, who, apparently has to answer a lot for this unnatural death? Otherwise officials can also be equally expected to explain their conduct.

Another glaring aspect of the case is seen from the statement of Partap Singh referred to by Sub Divisional Magistrate in his report. Though this prisoner has stated that the deceased had slipped in the bathroom, fell down and became unconscious. Thereafter, he was lifted and laid on the jail hospital bed, where doctor was also called. He, however, clearly stated that at that time there was no wound or injury on any part of the body of the deceased. He has further disclosed that there was no bleeding seen by him. How could then the father of the deceased notice injuries on the dead body of his son, when he saw the same after considerable lapse of time, while it was lying in Civil Hospital? From the facts, as noticed above, it is seen that no fair and independent investigation into the cause of injuries and death of son of the petitioner has so far been conducted. The enquiries held so far are not fair and are one sided, which apparently are motivated with an aim to save the jail officials. No fair and independent enquiry or investigation otherwise can be expected, unless the persons in the knowledge of the facts are made to depose about the same in a free and fair manner without any influence on them from the jail officials. Apparently, there is some foul play in regard to the cause of death of the son of the petitioner. It is rather

too difficult to accept the thing that a person can die by slipping in the bathroom while urinating. I have not been able to pursuade myself to accept this totally puerile explanation offered to pass off this case of unnatural death as an accidental one. There is, thus, a need for conducting independent investigation into the case, which is possible only if the case of unnatural death is registered as an offence and fair and proper investigation conducted to unearth the persons responsible for the same.

The petition is, thus, allowed and direction is issued to Senior Superintendent of Police, Amritsar, to register a First Information Report and to depute a suitable senior officer preferably Superintendent of Police (Detective) to conduct fair and proper investigation into the case so that no one is able to escape the liability. S.S.P., Amritsar, would place on record the further progress by filing a status report after a period of three months from the date, a certified copy of this order is received by him.

A copy of this order be sent to the Advocate General, Punjab, Director General of Police, Punjab, Senior Superintendent of Police, Amritsar, for information and action as deemed appropriate at their level.

May 30, 2007 **(RANJIT SINGH)**
khurmi **JUDGE**